

REMARKS

The above amendments are presented to clarify the scope of the claims and to address the objections posed by the examiner. It is believed that the above changes fully address and resolve the issues raised under the second paragraph of Section 112.

Please note that new claims 17-20 are based on originally presented claim 11. Effective minimum and maximum daily dosages for compositions according to the invention are described in the Table on page 9 of the specification. No new matter is believed to be presented.

Regarding the prior art rejections, the pending claims were rejected as having been obvious from a combination of Berdal (FR 2,583,640), Fukuda (US 4,804,536) and Kim et al. (US 6,417,349). Applicant respectfully traverses and requests reconsideration.

Berdal describes compositions with vasodilatory and/or vasculoprotective activity, which may comprise three out of the five active principles which are claimed in claim 1 of the present application. Berdal, however, fails to teach all ingredients of the claimed composition or the claimed method of use.

Notably, Berdal does not teach iodine as an active principle of the composition. Berdal also does not teach or suggest the use madecassic acid, asiatic acid or asiaticoside and mixtures thereof, as noted by the examiner. Moreover, in Berdal there is no specific disclosure or suggestion as to the treatment of cellulitis and adiposity, which is presently claimed.

Fukuda describes a dietary food which is prepared from brown algae and iron. As stated by the Examiner, the composition taught by Fukuda is a dietary supplement for decreasing the sodium content in a living body and consequently decreasing the blood pressure. The treatment method disclosed by Fukuda of the iron- bound brown algae has no relationship to the claimed treatment of adiposity and cellulitis.

We believe therefore that there is no reason why the skilled in the art would combine the

teaching of Fukuda with the teaching of Berdal. Moreover, even admitting that Fukuda could be combined with Berdal, the absence of a teaching about the need for iodine would not lead to the positive teaching of the present invention.

In the last paragraph of page 4 of the Action, the examiner refers to “iron” and cites the Fukuda patent in support of a suggestion to add iron to the Berdal composition. Iron is not, however, a component specified in the present claims. It appears that the citation and suggestion for combination of teachings with Fukuda is erroneous.

In the event the reference to “iron” was intended to be some form of reference to iodine with an unsupported assertion that iodine is an inherent component of brown algae, we note that nothing in Fukuda teaches or suggests that iodine remains after in the disclosed treatment of brown algae. There is also no recognition that iodine might be effective for any utility associated with the disclosed treatment.

Inherency is also an inappropriate rationale to support a rejection based on obviousness. They are different, opposing concepts. See, *In re Naylor*, 152 USPQ 106, 108 (CCPA 1966) and *In re Rijckaert*, 28 USPQ2d 1955 (Fed. Cir. 1993).

Kim et al. fails to fill in the gaps left by a combination of the Berdal and Fukuda teachings. Kim describes extracts of *Centella asiatica* having effect on the protection and anti-fibrosis of liver cells. *Centella asiatica* extracts were also known (according to the background section of the patent to Kim) for treatment of local injury of the tissues.

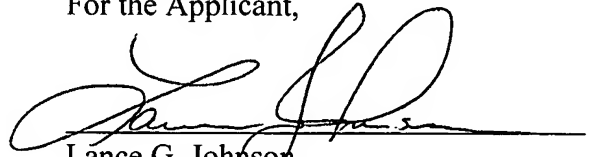
Kim does not suggest the use of iodine or present a motivational reason why one skilled in the art would combine the disclosed *Centella asiatica* extract (protection of liver cells) with the extract disclosed by Berdal (vasculoprotective activity). There is also nothing that links the effectiveness of the Kim et al. composition to the claimed treatment of adiposity and cellulitis with the claimed composition.

In re Application of:
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Reconsideration and allowance are respectfully requested.

For the Applicant,

A handwritten signature in black ink, appearing to read "Lance G. Johnson", written over a horizontal line.

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